

### **REMARKS/ARGUMENTS**

Claims 1, 4 through 15, and 17 through 22 remain pending. Claims 1, 7, 11, 12, 14, 20 and 21 are hereby amended. Claims 2, 3 and 16 are hereby canceled. Claims 7, 11 and 12 have been amended to depend from claim 1 because of the cancellation of claim 3 from which the claims previously depended. Claims 20 and 21 have been amended to depend from claim 14 because of the cancellation of claim 16 from which the claims previously depended.

In the specification, paragraph [0017] has been amended to correct minor editorial problems in response to an objection. Paragraphs [0032], [0033], [0035], [0036], [0037], [0038], [0039], [0040] and [0047] have been amended to correct the appearance of vector variables with respect to mathematical symbolism and other related issues.

#### **Summary of Office Action mailed Jan. 5, 2007**

The disclosure is objected to because of informalities regarding paragraph 0017.

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 37 of copending U.S. Patent Application Publication No. 2003/0081660, App. No. 09/931,121 (published May 1, 2003) by King, et al., [hereinafter "*King application*"].

Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 36 of U.S. Patent No. 6,775,319, App. No. 09/931,121 (issued August 10, 2004) to King, et al., [hereinafter "*King Patent*"].

Claims 1-2, 4-6, 14-15 & 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,009,118, App. No. 08/883,163 (issued December 28, 1999) to Tiemann, et al., [hereinafter "*Tiemann*"].

Claims 3, 11-13, 16 & 20-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over “*Tiemann*” as applied to claim 1, and in view of Applicant’s prior art.

Claims 7-10 & 18-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over “*Tiemann*” as applied to claim 1, and in view of Applicant’s prior art, and further in view of U.S. Patent No. 6,546,040 (issued Apr. 8, 2003) to Eschenbach, [hereinafter “*Eschenbach*”].

#### Regarding the Specification Informalities

The specification, paragraph 0017, has been corrected to refer to the base station as item 104 which corresponds with the item number indicated in Figure 1. Reconsideration and withdrawal of the objection to the specification is respectfully requested in light of the correction.

#### Regarding the rejections on the ground of nonstatutory obviousness-type double patenting

Applicant respectfully points out that the *King application* was granted as the *King Patent*, specifically U.S. Patent No. 6,775,319, App. No. 09/931,121 (issued August 10, 2004) as was previously cited above. Therefore, Applicant believes the provisional nonstatutory obviousness-type double patenting rejection to be moot, or otherwise an oversight, and addresses only the rejection based on the patent claims. See USPTO Office Action, page 3 & 4 (mailed Jan. 5, 2007) [hereinafter “Jan. 5<sup>th</sup> OA”] (regarding the provisional and non-provisional rejections).

Regarding the rejection of the instant claim 1 on the ground of nonstatutory obviousness-type double patenting based on claims 1 and 36 of the *King patent*, the Applicant believes the instant claim 1 as amended herein is patentably distinct and non-obvious over claims 1 and 36.

Claim 1 as amended incorporates the features of dependent claims 2 and 3 and therefore recites various features that are not described or suggested by claims 1 and 36 of the *King patent*.

Reconsideration and withdrawal of the nonstatutory obviousness-type double patenting rejection of claim 1 is respectfully requested based upon the patentable distinctness of claim 1 as amended.

Claims 1-2, 4-6, 14, 15 & 17 are rejected under 35 U.S.C. § 102(b)

As discussed above, independent claim 1 has been amended to incorporate the features of dependent claims 2 and 3. Claims 2 and 3 have been canceled.

Reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection of claim 1 is respectfully requested based on claim 1 being amended to incorporate the features of previous dependent claim 3.

Claims 4 through 6 are dependent claims that depend from, and include all limitations of, independent claim 1 as amended. Therefore, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection of claims 4 through 6 based upon the amendments to claim 1.

Independent claim 14 has been amended to incorporate the features of dependent claim 16. Claim 16 has been canceled. Reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection of claim 14 is respectfully requested based on claim 14 being amended to incorporate the features of previous dependent claim 16.

Claims 15 and 17 are dependent claims that depend from, and include all limitations of, independent claim 14 as amended. Therefore, Applicants respectfully request reconsideration

and withdrawal of the 35 U.S.C. § 102(b) rejection of claims 15 and 17 based upon the amendments to claim 14.

Claims 3, 11-13, 16 & 20-22 are rejected under 35 U.S.C. § 103(a)

The *King patent* and the instant application were under common ownership at the time the claimed invention was made. Recordation of assignment of the instant application to Motorola, Inc. may be found under USPTO assignment records, Reel/Frame 014874/0906, while recordation of assignment of the *King patent* to Motorola, Inc., at the time the claimed invention was made, may be found under USPTO assignment records, Reel/Frame 012105/0051.

Therefore, with respect to the above noted assignments, and in accordance with 35 U.S.C. § 103(c)(1), the *King patent* cannot be used to preclude patentability under 35 U.S.C. § 103(a) for the instant application. Therefore withdrawal of the 35 U.S.C. § 103(a) rejections of claims 3, 11-13, 16 & 20-22 is respectfully requested.

Claims 7-10 & 18-19 are rejected under 35 U.S.C. § 103(a)

Likewise, withdrawal of the 35 U.S.C. § 103(a) rejections of claims 7-10 & 18-19, in accordance with 35 U.S.C. § 103(c)(1), is respectfully requested in light of the rejections being grounded upon the disclosure of the *King patent*.

## CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant(s) has/have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this response, including any fees for Extensions of Time, or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,  
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